

## REMARKS

Claims 16-32, 44-58, 73-80 and 99-108 are pending in the present application and stand rejected in the Outstanding Office Action. In this Amendment, Claims 104 and 106-108 have been amended. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### REJECTIONS UNDER 35 U.S.C. § 102

Claims 104 and 106-108 stand rejected under 35 U.S.C. 102(b) as being anticipated by Ogden Sr. et al., U.S. Patent No. 3,662,147.

As the Response mailed on August 26, 2004 indicated, Ogden requires that the four operating modes be operated sequentially in response to a depressing or releasing action. More specifically, Ogden combines a complex electrical circuit and a conventional trigger button that is movable only between a depressed position and a released position to achieve the selection of a plurality operating modes.

Claims 104 and 106-108 have been amended to require a selector operable in **more than two operating positions** to mechanically operate the plasma arc torch in a plurality of operating modes. Ogden cannot anticipate these claims without disclosing a selector movable in more than two operating positions. Accordingly, Applicants respectfully request that these claim rejections be withdrawn.

Claims 105, 106 and 108 are also rejected under 35 U.S.C. 102(b) as being anticipated by Kester et al., U.S. Patent No. 3,629,547. The Outstanding Office Action states that Kester shows parallel guides as claimed in Claim 105.

Applicants respectfully disagree that elements 146 and 148 in Kester function as parallel guides “to prevent rotation or misalignment of the trigger system during operation,” as required in Claim 105. Elements 146 and 148 in Kester are contact members for conducting electrical continuity through control wires 98 and are not designed to remain parallel all the time and to prevent rotation or misalignment of the trigger system.

With regard to Claim 106, Applicants submit that Kester cannot anticipate Claim 106 because element 156, which is a lock actuator 156, is exposed to outside of the actuator switch assembly 127 and is not enclosed within the actuator switch assembly 127, as opposed to Claim 106, which requires that the selector enclose components disposed within the torch handle **throughout a plurality of operating positions of the selector**.

With regard to Claim 108, Claim 108 has been amended to clarify that the contoured surface of the internal stop **guides** the selector to more than two operating positions and positions features of the selector for operating a plurality of operating modes. Kester cannot anticipate Claim 108 because the inner portion of the gripper housing 124 that is in contact with the lock actuator 156 does not function to **guide** the actuator switch assembly 127 to more than two positions and then to position the same for operating in a plurality of operating modes. Rather, in Kester, the lock actuator 156 positions the contact members 146 and 148 in an actuated, contact position only after the actuator switch assembly 127 has been pivoted to make the contact members 146 and 148 contact. (see Col. 6, lines 1-5.)

Moreover, Kester is operable only in one mode, i.e., an actuated condition. Accordingly, Kester cannot anticipate these claims and Applicants respectfully request that these claims rejections be withdrawn.

Claim 107 is also rejected under 35 U.S.C. 102(b) as being anticipated by Alvord et al., U.S. Patent No. 6,079,401.

Claim 107 has been amended to clarify that a single element has a plurality of features that function to activate a plurality of switches in more than two positions for a plurality of modes. Alvord cannot anticipate Claim 107 because the features of a single rotary knob in Alvord are used to move a movable terminal to different positions of a single circuit to change the resistance of the circuit, rather than actuate a plurality of switches. Accordingly, Applicants respectfully request that the rejection of Claim 107 be withdrawn.

#### **REJECTIONS UNDER 35 U.S.C. § 103**

Claims 16-20, 22-31, 44-48, 50-53, 55-58, 73-80 and 99-108 stand rejected under 35 U.S.C. §103 as being unpatentable over Blankenship et al., U.S. Patent No. 5,357,076 or Brown, U.S. Patent No. 3,581,051 in view of Ogden, Sr. et al. Applicants respectfully request reconsideration of these rejections in light of the following remarks.

As the Response mailed on August 26, 2004 indicated, Claims 16, 26, 44, 52, 99, 102, 104 and 107 require that the selector comprising a first operating position and/or a second operating position and/or a neutral position or a plurality of operating positions, which mechanically operate the apparatus in (1) a first mode to deliver the gas to the plasma arc torch, and/or (2) a second operating mode to deliver the gas and the electric power, and/or (3) a neutral mode to inhibit delivery of the gas and the electric power,

**without preselecting the operating modes at a power supply and the operating positions being independent of one another.**

Blankenship, Brown and Ogden cannot make these claims obvious. Blankenship requires a combination of operating parameters to be preselected and performed at the power supply. Brown requires that the four predetermined positions corresponding to different operating modes be preselected, indicating the selector by itself cannot select the operating modes if the operating modes are not preselected. Ogden uses a trigger control circuit to **sequentially** select the operating modes. Since none of these references teach a selector mechanically operable in a first mode to deliver the gas to the plasma arc torch, and/or a second mode to deliver the gas and the electric power, and/or a neutral mode to inhibit delivery of the gas and the electric power **without preselecting** the operating modes at the power supply where these operating positions are independent of one another, they cannot provide a motivation to modify Ogden to achieve the claimed inventions. Accordingly, Applicants respectfully request that these claim rejections be withdrawn.

Claims 17-20 and 22-25, 27-31, 50, 51, 53, 55-58, 100, 101, and 103 each depend from Claims 16, 26, 44, 52, 99 and 102, respectively, and distinguish over Blankenship, Brown or Ogden for at least the reasons stated above in connection with Claims 16, 26, 44, 52, 99 and 102. Accordingly, Applicants respectfully request that the rejections of Claims 17-20 and 22-25, 27-31, 50, 51, 53-55, 58, 100, 101, and 103 be withdrawn.

With regard to Claim 73, Blankenship or Brown cannot render Claim 73 obvious in view of Ogden because these references do not disclose a welding gun or a plasma arc

torch with a gas control device disposed **within the torch handle**. Accordingly, Applicants respectfully request that rejection of Claim 73 be withdrawn.

Claims 74-80 each depend from Claim 73 and distinguish over Blankenship, Brown or Ogden for at least the reasons stated above in connection with Claim 73. Accordingly, Applicants respectfully request that rejections of Claims 74-80 be withdrawn.

With regard to Claim 105, Blankenship or Brown cannot render Claim 105 obvious in view of Ogden because these references use either rotatable or depressing trigger, teaching away a set of parallel guides to prevent rotation or misalignment of the trigger system. Accordingly, Applicants request that the rejection of Claim 105 be withdrawn.

With regard to Claim 106, Blankenship or Brown cannot render Claim 106 obvious in view of Ogden because none of these references teach or suggest a selector which can **enclose components disposed within the torch handle** as defined in Claim 106. Accordingly, Applicants respectfully request that the rejection of Claim 106 be withdrawn.

With regard to Claim 107, Blankenship or Brown cannot make Claim 106 obvious in view of Ogden because none of these references teach or suggest a single element having a plurality of features that function to activate a plurality of switches in more than two operating positions for a plurality of operating modes. Accordingly, Applicants respectfully request that the rejection of Claim 107 be withdrawn.

With regard to Claim 108, Blankenship or Brown cannot render Claim 108 in view of Ogden because none of these references disclose or suggest the use of contoured adjacent faces to **guide and position** the selector for operating in a plurality of modes as

required in Claim 108. Accordingly, Applicants respectfully request that the rejection of Claim 108 be withdrawn.

Claims 21, 31, 49 and 54 are also rejected under 35 U.S.C. §103 as being unpatentable over Blankenship et al. or Brown in view of Ogden, Sr. et al and further in view of Dean et al.

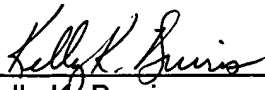
Claims 21, 31, 49 and 54 are dependent claims depending respectively from Claims 16, 26, 44, and 52, the patentability of which has been discussed in the Response mailed on August 26, 2004 and above. Again, Dean cannot make these claims obvious because Dean does not teach a selector mechanically operable in a first mode to deliver the gas to the plasma arc torch, and/or a second mode to deliver the gas and the electric power, and/or a neutral mode to inhibit delivery of the gas and the electric power **without preselecting** the operating modes at the power supply where these operating positions are independent of one another. Accordingly, Applicants respectfully request that these claim rejections be withdrawn.

#### **CONCLUSION**

It is believed that all of the stated grounds of objection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding objections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (314) 726-7524.

Respectfully submitted,

Dated: 24 JUN 05

By:   
Kelly K. Burris  
Reg. No. 46, 361

HARNESS, DICKEY & PIERCE, P.L.C.  
7700 Bonhomme Rd.  
Suite 400  
St. Louis, MO 63105  
(314) 726-7500